

REMARKS

Applicant appreciates the thorough review of the present application as reflected in the Office Action. Applicant has carefully examined the cited references and submits that the pending Claims 1-20 are patentable for at least the following reasons.

Status of the Claims:

Claims 18-20 stand rejected under 35 U.S.C. §101 as directed to non-stutory subject matter. Claims 1-3, 8-13 and 18 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,937,743 to Rassman et al. (Rassman). Claims 1, 4-7, and 13-20 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,367,670 to Ward et al. (Ward).

Amended Independent Claim 18 and Dependent Claims 19-20 Satisfy 35 U.S.C. §101:

Claims 18-20 have been rejected under 35 U.S.C. §101 as not being limited to tangible embodiments in view of Applicant's definition of computer readable medium in the application specification. In response thereto, Claim 18 has been amended to recite a "tangible computer readable medium", and, thereby, limit Claim 18 and dependent Claims 19-20 to patentable subject matter. Accordingly, Applicant submits that Claims 18-20 satisfy the patentable subject matter requirement of 35 U.S.C. §101.

Independent Claims 1, 13, and 18 are Not Anticipated by Rassman:

Claim 1 recites a method of selecting among a plurality of alert conditions for processing with a resource management system. The method includes associating a priority indication with at least some resources in a computer system, identifying resources associated with the alert conditions, and selecting an alert condition from among the alert conditions based on the priority indication associated with the identified resources.

As explained on page 5 at lines 10-22 of the present application specification, when significant power outages occur in a computer system, alert conditions can be received into a wait queue of a resource management system at a much higher rate than can be processed thereby. By associating priority indications with resources in a computer system, identifying resources associated with the alert conditions, and selecting alert condition from among the alert conditions based on the priority indication of the identified resource, some embodiments of Claim 1 may be able to timely identify failure of a critical resource whose alert condition

is buried deep within a queue below other alert conditions that are associated with lesser priority resources. Such timely identification of the alert condition may enable a satisfactory response to the failed critical resource.

The Office Action contends on page 3 that Claim 1 reads on Rassman's col. 1, lines 6-12 and col. 3, lines 2-11, which are repeated below:

The invention relates to a method for managing resources and particularly to the method and system for the prospective scheduling and real time dynamic management of a plurality of interdependent and interrelated resources using a computer system for communicating information. (Rassman, Col. 1, lines 6-12)

"Scheduling indicia" may be used to indicate utilization (historical and/or prospective) of resources, "status indicia" may be employed to reflect current status of events and "conflict indicia" may be used to alert operators to scheduling conflicts. In one of its preferred configurations, the invention contemplates providing access to a data base to permit continuous updating of the information stored therein so that when resource utilization is displayed it reflects the most recent data in the data base. (Rassman, Col. 3, lines 2-11)

Rassman describes a computer system that manages and schedules resources, namely operating rooms, doctors, and associated equipment. The computer system alerts an operator, using various scheduling and status indicia, when there are scheduling conflicts between scheduled events that seek to impermissibly use the same resource (i.e., surgery scheduled during overlapping times for the same operating room).

However, in neither the cited sections nor elsewhere does Rassman describe or suggest that a priority indication is associated with any of the resources. Moreover, Rassman does not describe or suggest that an alert condition is selected among a plurality of alert conditions based on priority indications for resources associated with the alert conditions. Indeed, Rassman provides no description or suggestion whatsoever of any prioritization of some resources over others and, indeed, provides no mention of the word "priority" or "priorities" or the associated concept. The computer system of Rassman simply notifies an operator when there is a scheduling conflict and, presumably, is subject to the problem described above where scheduling conflicts are placed in a queue and simply handled in the order in which there are first identified. Consequently, the computer system of Rassman would handle a scheduling conflict for a critical resource with no prioritization over another earlier-received scheduling conflict for a non-critical resource.

Since a finding of anticipation requires that there must be no difference between the claimed invention and the disclosure of the cited reference, Rassman cannot anticipate Claim

1 for at least these reasons set forth above. Independent Claims 13 and 18 contains similar recitations to Claim 1, and are not anticipated by Rassman for at least the reasons explained for Claim 1. Reconsideration and allowance of independent Claims 1, 13, and 18 is respectfully requested.

The dependent claims are patentable at least per the patentability of the independent base claims from which they depend. Moreover, Applicant submits that the dependent claims provide independent bases for patentability for at least the reasons explained below. For the sake of brevity, Applicant will discuss the independent bases for patentability of only some of the dependent claims, while reserving the right to argue the patentability of the other dependent claims.

Dependent Claims 3 and 10-12 are Not Anticipated by Rassman:

Dependent Claim 3 recites that priority indications are associated with resources by prioritizing the resources based on their importance to the operation of the business. The Office Action contends that Claim 3 reads on Col. 4, lines 36-55 of Rassman, repeated below:

There are numerous situations which can effectively be managed by the use of the instant invention. One such situation is monitoring and planning the use of the facilities and other resources available in the surgical suite of a hospital. Each operating room represents a resource and information can be provided in the data base about each operating room. For example, some operating rooms may be limited to ambulatory procedures, some may be specifically designed and equipped for open heart surgery, some may require only 15 minutes for clean up between procedures and others might need 20 minutes. Some specialized pieces of equipment may be limited to use in only some of the operating rooms. Some equipment may require long periods of sterilization between procedures, while others require none. Also, some resources may be unavailable because of construction, repair or maintenance activities. If the particular application calls for a rule-based system (as will be discussed below), the applicable rules would normally be in the knowledge or data base. Preferably, all such information would be included in a primary or semi permanent data base.

The cited paragraph of Rassman describes how a surgical suite of a hospital can be managed. Use of operating rooms and equipment is monitored and planned based on their designated purpose (e.g., for heart surgery), the amount of time they are expected to be used during a procedure, the amount of time needed to clean up between procedures, and whether they are available in view of construction/repair/maintenance activities. Nowhere in the cited paragraph nor elsewhere does Rassman describe or suggest that importance of various

resources to operation of the business is used to associate a priority indication with those resources. Consequently, Applicant submits that Rassman does not anticipate Claim 3.

Dependent Claim 10 depends from Claim 9, and the combination recites that, in response to a number of queued alert conditions for the resource management system satisfying a threshold number, the resource management system responds by selecting an alert condition from among the alert conditions based on the priority indications associated with the identify resources. Thus, for example, the resource management system may initiate handling of queued alert conditions based on priority when the number of queued alert conditions becomes excessive. The Office Action contends that Claim 10 reads on Rassman's Abstract, repeated below:

The invention relates to the method for the prospective scheduling, periodic monitoring and dynamic management of a plurality of interrelated and interdependent resources using a computer system. The method includes providing a data base containing information about the resources and graphically displaying utilization and availability of the resources as a function of time. Indicia can be made to appear on the display to provide visual identification of symbols as well as information about scheduling, status and conflicts involving the resources. In addition, access to the data base can be made available to provide a continuous update of the display so that the display of the resources is for the most recent data in the data base. Access to the data base can also permit the operator to call up a wide variety of information about the resources and can also be used to track events and procedures.

Applicant submits that in neither the cited Abstract nor elsewhere does Rassman describe or suggest any determination of whether a number of queued alert conditions for resource management system satisfies a threshold number and, much less, the particular method of Claim 10. Consequently, Rassman does not anticipate Claim 10.

Dependent Claim 11 depends from Claim 9, and the combination recites that, in response to a waiting time for alert conditions to be handled by the resource management system satisfying a threshold time, the resource management system responds by selecting an alert condition from among the alert conditions based on the priority indications associated with the identify resources. Thus, for example, the resource management system may initiate handling of queued alert conditions based on priority when the wait time for alert conditions to be handled by the resource management system becomes excessive.

The Office Action contends that Claim 11 reads on Rassman's Abstract, repeated above. Applicant submits that in neither the cited Abstract nor elsewhere does Rassman describe or suggest any determination of whether a waiting time for alert conditions to be

handled by a resource management system satisfies a threshold time and, much less, the particular method of Claim 11. Consequently, Rassman does not anticipate Claim 11.

Dependent Claim 12 depends from Claim 9, and the combination recites that, in response to receiving a threshold rate of alert conditions for the resource management system, the resource management system responds by selecting an alert condition from among the alert conditions based on the priority indications associated with the identify resources. Thus, for example, the resource management system may initiate handling of queued alert conditions based on priority when the rate of alert conditions that are to be handled by the resource management system becomes excessive.

The Office Action contends that Claim 12 reads on Rassman's Abstract, repeated above. Applicant submits that in neither the cited Abstract nor elsewhere does Rassman describe or suggest any determination of rate at which alert conditions are received by a resource management system and, much less, the particular method of Claim 12. Consequently, Rassman does not anticipate Claim 12.

Independent Claims 1, 13, and 18 are Not Anticipated by Ward:

The Office Action contends on page 12 that Claim 1 reads on Ward's col. 1, lines 26-27 and 31-33, col. 3, lines 2-11, col. 5, lines 48-49 which are repeated below:

The invention relates to a manager for a computer system, and, more particularly, to a computer system manager which innately monitors and processes objects indicative of computer system performance and actual and/or potential computer system failures, determines alert conditions based upon the innately monitored and processed objects, reports alert conditions in either an in-band or out-of-band mode and provides for corrective action to be taken from a remote location. (Ward, Col. 1, lines 26-35).

If the signals are active, then the corresponding system resources are being used. In this manner, these signals may be used to monitor the performance of the computer system board 13. (Ward, Col. 5, lines 48-51).

In the cited section and elsewhere, Ward describes that a system manager has the ability to detect the failure or potential failure of system components, and to report the failure or potential failure as an alert to a control manager 118 so that corrective action can be taken. (See, Ward, Col. 5, lines 15-20). However, in neither the cited sections nor elsewhere does Ward describe or suggest that a priority indication is associated with any of the system components. Moreover, in neither the cited sections nor elsewhere does Ward describe or suggest that an alert condition is selected from among a plurality of alert conditions based on

the priority indications for resources associated with the alert conditions. Indeed, Ward provides no description or suggestion whatsoever of any prioritization of some resources over others and, indeed, provides no mention of the word "priority" or "priorities" or the associated concept. The system manager of Ward simply notifies the control manager 118 when a failure or potential failure is detected and, presumably, is subject to the problem described above where failure/potential failure notices are placed in a queue and simply handled by the control manager 118 in the order that they are first identified.

Since a finding of anticipation requires that there must be **no difference** between the claimed invention and the disclosure of the cited reference, Ward cannot anticipate Claim 1 for at least these reasons set forth above. Independent Claims 13 and 18 contains similar recitations to Claim 1, and are not anticipated by Ward for at least the reasons explained for Claim 1. Reconsideration and allowance of independent Claims 1, 13, and 18 is respectfully requested.

Dependent Claims 4-6 are Not Anticipated by Ward:

Dependent Claim 4 recites that priority indications are associated with resources by prioritizing some resources based on an effect of their failure on other resources in the computer system. The Office Action contends that Claim 4 reads on Col. 5, lines 15-20 of Ward, repeated below:

If a component experiences a failure or exhibits characteristics that indicate it may experience a failure, the system manager 22 detects the failure or characteristic indicative of a potential failure and reports the failure or characteristic indicative of a potential failure as an alert in a manner such that corrective action can be taken.

The cited section of Ward describes that the system manager 22 detects failure or potential failure and reports the failure or potential failure as an alert so that corrective action can be taken. In neither the cited section nor elsewhere does Ward describe or suggest that priority indications are associated with resources or, much less, that some resources are prioritized over others based on an effect of their failure on other resources in the computer system. Consequently, Applicant submits that Ward does not anticipate Claim 4.

Dependent Claim 5 recites that priority indications are assigned to resources based on whether a resource is a server of information for predetermined computers in the computer system. The Office Action contends that Claim 5 reads on Col. 2, lines 43-49 of Ward, repeated below:

A network operating system/network manager controls and manages information transfers between the file server and the console and a system manager manages the computer system board by monitoring signals transferred along the system bus, determining alert conditions based upon the monitored signals and generating alerts based upon the determined alert conditions.

Although the cited section of Ward mentions that the network operating system/network manager controls and manages information transfers between a file server and a console, nowhere does Ward describe or suggest that priority indications are assigned to resources or, much less, that priority indications are assigned to resources based on whether resources are a server of information for predetermined computers in a computer system. Consequently, Applicant submits that Ward does not anticipate Claim 5.

Dependent Claim 6 recites that priority indications are assigned to resources based on whether a resource is a server of information for predetermined software applications in the computer system. The Office Action contends that Claim 6 also reads on Col. 2, lines 43-49 of Ward, repeated above. However, as explained above with regard to Claim 5, nowhere does Ward describe or suggest that priority indications are assigned to resources or, much less, that priority indications are assigned to resources based on whether resources are server of information for predetermined software applications in a computer system. Consequently, Applicant submits that Ward does not anticipate Claim 6.

CONCLUSION

In view of the above amendments and remarks, Applicant respectfully requests withdrawal of all objections and rejections and the allowance of all claims in due course. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is encouraged to contact the undersigned by telephone at (919) 854-1400.

Respectfully submitted,



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